

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

In re Applications of)	MM DOCKET NO. 99-153
)	
READING BROADCASTING, INC.)	File No. BRCT-940407KF
)	
For Renewal of License of)	
Station WTVE(TV), Channel 51)	
Reading, Pennsylvania)	
)	
and)	
)	
ADAMS COMMUNICATIONS)	File No. BPCT-940630KG
CORPORATION)	
)	
For Construction Permit for a New)	
Television Station to Operate on)	
Channel 51, Reading, Pennsylvania)	

To: Administrative Law Judge
 Richard L. Sippel

ENFORCEMENT BUREAU'S COMMENTS ON
TRIAL BRIEFS SUBMITTED BY READING BROADCASTING, INC.
AND ADAMS COMMUNICATIONS CORPORATION

1. By Order, FCC 00M-28, released April 5, 2000, Reading Broadcasting, Inc. ("RBI") and Adams Communications Corporation ("Adams") were directed to submit trial briefs by May 18, 2000, in connection with the adjudication of added issues relative to RBI's and Adams' qualifications. The RBI issue seeks to determine whether Micheal Parker misrepresented facts and/or lacked candor in connection with various applications filed with the Commission in the early 1990s. The Adams issue seeks to determine whether Adams filed its application for Reading for the purpose of achieving a settlement. The Order also provided that the Enforcement Bureau could submit comments on the trial briefs by May 23, 2000. The Bureau hereby submits the following comments.

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2. By Memorandum Opinion and Order, FCC 99M-61, released October 15, 1999, the Presiding Officer added an issue to determine whether RBI principal, Micheal Parker (“Mr. Parker”)

“engaged in a pattern of misrepresentation and/or lack of candor in failing to advise the Commission of the actual nature and scope of his previously adjudicated misconduct...”

The failures in question occurred in connection with seven applications, beginning in 1989 and continuing well into 1992, in which Mr. Parker was a party.¹ *See* Reading Broadcasting, Inc.’s Motion for Summary Decision on the Misrepresentation/Lack of Candor Issue, pp. 9-10, 12, filed May 18, 2000.

3. In its trial brief, Adams characterizes relevant application questions as including those which seek to determine whether any adverse finding had been made relative to any party in a judicial or administrative setting relative to fraud. *See* Adams Communications Corporation Trial Brief for Phases II and III, at p. 3. In view of the applicants’ negative answers and the actual facts, Adams posits that those questions were answered deceptively. However, the question referenced reads as follows:

“Has an adverse finding been made, adverse final action taken or consent decree approved by any court or administrative body as to the applicant or any party to the application in any civil or criminal proceeding brought under the provisions of any law related to the following: any felony, antitrust, unfair competition, fraud, unfair labor practices, or discrimination.”

The problem with this approach is that the question is not designed to elicit information

¹ Three applications were filed in 1989, two in 1991, and two in 1992. While only the 1991 and 1992 applications are relevant because of the limitation imposed by the Commission’s Character Policy Statement, 102 FCC 2d 1179, 1229 (1986) (subsequent history omitted), the other three must be considered to understand fully the context for the answers provided in the later applications.

concerning typical Commission broadcast licensing proceedings and decisions, such as the multi-party comparative proceeding that provided the backdrop for the Review Board's decision in Religious Broadcasting Network, 3 FCC Rcd 4085 (Rev. Bd. 1988) or the cancellation of the construction permit as was the case in Mt. Baker Broadcasting Co., Inc., 3 FCC Rcd 4777 (1988). Rather, the question is meant to uncover whether, for example, the applicant has been convicted in a non-FCC forum for fraud, thereby possibly raising a question about its qualifications to be a Commission licensee. See Character Policy Statement, 102 FCC 2d at 1195-1202. In this regard, neither Religious nor Mt. Baker was a non-FCC proceeding brought under the provisions of any law related to fraud. Thus, as a matter of law, the applicants' answers to this question could not form the predicate for the misrepresentation/lack of candor issue currently pending against RBI.

4. The Bureau submits that the proper starting point is a subsequent question in the applications, which focuses on "Other Broadcast Interests." That question reads:

"Has any applicant or any party to this application have any interest in or connection with the following?

- (a) an application which has been dismissed with prejudice by the Commission?
- (b) an application which has been denied by the Commission?
- (c) a broadcast station, the license which has been revoked?
- (d) an application in any Commission proceeding which left unresolved character issues against the applicant?
- (e) If the answer to any of the questions ... is Yes, state in Exhibit No. ____, the following information:

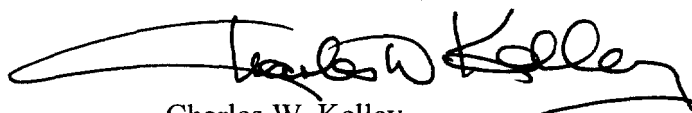
- (I) Name of party having such interest;
- (II) Nature of interest or connection, giving dates;
- (III) Call letters of stations or file number of application, or docket number;
- (IV) Location.

Although the applications to which Mr. Parker was a party contained accurate answers in response to subparts (a) and (b), they did not, in the Bureau's view, contain accurate

answers to subparts (c) and (d). In all instances, the applicants unequivocally related that no license (or permit) was revoked and that no character issues had been left unresolved. Moreover, when specifically asked by the staff whether any unresolved character issue remained with respect to the applications referenced in connection with responses to subparts (a) and (b), the applicant that sought to acquire KCBI, Dallas, submitted an amendment stating that no such issue remained unresolved. Thus, the Commission staff members reviewing the applications in question were not alerted to the fact that the Religious applicant had an unresolved real party in interest issue, and that the Mt. Baker permittee had had its permit canceled because of apparent intentional deception. It remains to be seen whether RBI can adequately explain the rationale for the false answers provided in regard to Mr. Parker.

5. There is no other aspect of either trial brief that raises concerns about the likely proffers of either applicant or their understandings of the issues.

Respectfully submitted,
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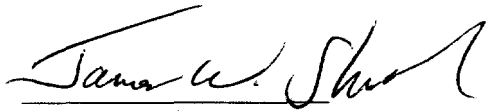
CERTIFICATE OF SERVICE

James W. Shook, an attorney in the Enforcement Bureau's Investigations and Hearings Division, certifies that he has on this 22nd day of May, 2000, sent by facsimile or by hand, copies of the foregoing "Enforcement Bureau's Comments on Trial Briefs Submitted by Reading Broadcasting, Inc. and Adams Communications Corporation" to:

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